

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF EXCHANGE)

MEMORANDUM DECISION

APPLICATION NUMBER 35-9895 (E3334))

Exchange Application Number 35-9895 (E3334), in the name of Brian L. Adams, was filed on September 8, 1994, to exchange 2.0 acre-feet of water as evidenced by U.S. Bureau of Reclamation and contract with Weber Basin Water Conservancy District under Water Right Number 35-828 (A27609). The 2.0 acre-feet of water is to be released into Weber River and, in lieu thereof, 2.0 acre-feet of water will be diverted from a six inch well, 100 feet to 300 feet deep, located North 510 feet and East 780 feet from the SW Corner of Section 10, T 3N, R 4E, SLB&M, and used for the irrigation of 0.27 acre, the stockwatering of 10 cattle or equivalent, and the domestic purposes of two families.

The application was advertised in The Summit County Bee from October 28, 1994, to November 11, 1994. The exchange of water was advertised as evidenced by the U.S. Bureau of Reclamation and contract under Water Right Number 35-8739 in the name of Weber River Water Users Association. It should have read "evidenced by U.S. Bureau of Reclamation and contract with Weber Basin Water Conservancy District under Water Right Number 35-828 (A27609)". As a result, the Weber River Water Users Association protested the exchange application because the applicants are not a stockholder in the Association. A hearing was not held.

The State Engineer recognizes the Association's protest resulted from a misadvertising of the description of the underlying right. The application has been amended to show the correct water right being exchanged and not the right owned by Weber River Water Users Association. The Conservancy District has verified the existence of a valid contract with the applicant.

It is, therefore, **ORDERED** and Exchange Application Number 35-9895 (E3334) is hereby **APPROVED** subject to prior rights and the following conditions:

- 1) The basis for this exchange right is a contract between the applicants and Weber Basin Water Conservancy District. This contract must be maintained for this exchange to remain valid. No water may be withdrawn from the well if a contract is not in effect.
- 2) Total diversion under this exchange application for all uses applied for is limited to 2.0 acre-feet of water per year. These uses are limited to the irrigation of 0.27 acres, the stockwatering of 10 cattle or equivalent, and the domestic purposes of two families. For the purpose of regulating this exchange, the applicants shall install a permanent totalizing meter to measure withdrawals from the well, which meter shall be available for inspection by the commissioner of the Weber River at any reasonable time.
- 3) The water being exchanged shall be released from Wanship reservoir into Weber River as called for by the river

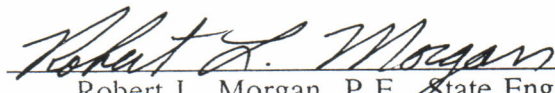
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commissioner.

- 4) Under the authority of Section 73-3-20 of the Utah Code, the applicant is required to submit a proof diversion and beneficial use of water upon 60 days notification by the State Engineer. The proof shall be in the same form and contain the same elements as required for appropriation or permanent change of water under Section 73-3-16 of the Utah Code Annotated.

This Decision is subject to the provisions of Rule R655-6-17 of the Division of Water Rights and to Sections 63-46b-13 and 73-3-14 of the Utah Code Annotated, 1953, which provide for filing either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. A Request for Reconsideration must be filed with the State Engineer within 20 days of the date of this Decision. However, a Request for Reconsideration is not a prerequisite to filing a court appeal. A court appeal must be filed within 30 days after the date of this Decision, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the Request is filed.

Dated this 17th day of March, 1995.


Robert L. Morgan, P.E., State Engineer

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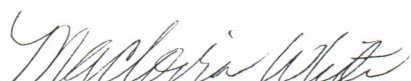
Mailed a copy of the foregoing Memorandum Decision this 17th day of March, 1995, to:

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BY: 
MacClovia White, Secretary